



General Assembly

January Session, 2017

Amendment

LCO No. 7503



Offered by:
SEN. LOONEY, 11th Dist.

To: Subst. Senate Bill No. 426

File No. 337

Cal. No. 184

"AN ACT CONCERNING CONTRACTS BETWEEN HEALTH CARRIERS AND HEALTH CARE PROVIDERS, AGENTS OR VENDORS, PARTICIPATING PROVIDER DIRECTORIES AND SURPRISE BILLS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (b) of section 38a-591d of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *January 1, 2018*):

6 (b) With respect to a nonurgent care request:

7 (1) (A) For a prospective or concurrent review request, a health
8 carrier shall make a determination within a reasonable period of time
9 appropriate to the covered person's medical condition, but not later
10 than fifteen calendar days after the date the health carrier receives such
11 request, and shall notify the covered person and, if applicable, the
12 covered person's authorized representative of such determination,

13 whether or not the carrier certifies the provision of the benefit.

14 (B) If the review under subparagraph (A) of this subdivision is a
15 review of a grievance involving a concurrent review request, pursuant
16 to 45 CFR 147.136, as amended from time to time, the treatment shall
17 be continued without liability to the covered person until the covered
18 person has been notified of the review decision.

19 (C) (i) Notwithstanding subparagraph (B) of this subdivision, if a
20 covered person or the covered person's authorized representative files
21 any grievance or requests any review of an adverse determination
22 pursuant to this section relating to the dispensation of a drug, other
23 than a schedule II or III controlled substance, prescribed by a licensed
24 participating provider, the health carrier shall issue immediate
25 electronic authorization to the covered person's pharmacy to dispense
26 a temporary supply of the drug sufficient for the duration of the
27 grievance or review. The authorization shall include confirmation of
28 the availability of payment for such supply of such drug.

29 (ii) Not later than twenty-four hours after the health carrier has
30 issued such authorization to the pharmacy and prior to the pharmacy's
31 dispensation of such drug, such health carrier shall confirm with the
32 participating provider the provider's concurrence with the dispensing
33 of such temporary supply of such drug. If such participating provider
34 does not concur, the health carrier shall cancel such authorization.

35 (iii) The provisions of this subparagraph shall not apply to a
36 grievance or review of an adverse determination under this section
37 concerning the substitution of a generic drug or another brand name
38 drug for a prescribed brand name drug unless the prescribing
39 participating provider has specified that there shall be no substitution
40 for the specified brand name drug.

41 (2) For a retrospective review request, a health carrier shall make a
42 determination within a reasonable period of time, but not later than
43 thirty calendar days after the date the health carrier receives such
44 request.

45 (3) The time periods specified in subdivisions (1) and (2) of this
46 subsection may be extended once by the health carrier for up to fifteen
47 calendar days, provided the health carrier:

48 (A) Determines that an extension is necessary due to circumstances
49 beyond the health carrier's control; and

50 (B) Notifies the covered person and, if applicable, the covered
51 person's authorized representative prior to the expiration of the initial
52 time period, of the circumstances requiring the extension of time and
53 the date by which the health carrier expects to make a determination.

54 (4) (A) If the extension pursuant to subdivision (3) of this subsection
55 is necessary due to the failure of the covered person or the covered
56 person's authorized representative to provide information necessary to
57 make a determination on the request, the health carrier shall:

58 (i) Specifically describe in the notice of extension the required
59 information necessary to complete the request; and

60 (ii) Provide the covered person and, if applicable, the covered
61 person's authorized representative with not less than forty-five
62 calendar days after the date of receipt of the notice to provide the
63 specified information.

64 (B) If the covered person or the covered person's authorized
65 representative fails to submit the specified information before the end
66 of the period of the extension, the health carrier may deny certification
67 of the benefit requested.

68 Sec. 502. Subsection (c) of section 38a-591e of the general statutes is
69 repealed and the following is substituted in lieu thereof (*Effective*
70 *January 1, 2018*):

71 (c) (1) (A) When conducting a review of an adverse determination
72 under this section, the health carrier shall ensure that such review is
73 conducted in a manner to ensure the independence and impartiality of
74 the clinical peer or peers involved in making the review decision.

75 (B) If the adverse determination involves utilization review, the
76 health carrier shall designate an appropriate clinical peer or peers to
77 review such adverse determination. Such clinical peer or peers shall
78 not have been involved in the initial adverse determination.

79 (C) The clinical peer or peers conducting a review under this section
80 shall take into consideration all comments, documents, records and
81 other information relevant to the covered person's benefit request that
82 is the subject of the adverse determination under review, that are
83 submitted by the covered person or the covered person's authorized
84 representative, regardless of whether such information was submitted
85 or considered in making the initial adverse determination.

86 (D) Prior to issuing a decision, the health carrier shall provide free
87 of charge, by facsimile, electronic means or any other expeditious
88 method available, to the covered person or the covered person's
89 authorized representative, as applicable, any new or additional
90 documents, communications, information and evidence relied upon
91 and any new or additional scientific or clinical rationale used by the
92 health carrier in connection with the grievance. Such documents,
93 communications, information, evidence and rationale shall be
94 provided sufficiently in advance of the date the health carrier is
95 required to issue a decision to permit the covered person or the
96 covered person's authorized representative, as applicable, a reasonable
97 opportunity to respond prior to such date.

98 (2) If the review under subdivision (1) of this subsection is an
99 expedited review, all necessary information, including the health
100 carrier's decision, shall be transmitted between the health carrier and
101 the covered person or the covered person's authorized representative,
102 as applicable, by telephone, facsimile, electronic means or any other
103 expeditious method available.

104 (3) If the review under subdivision (1) of this subsection is an
105 expedited review of a grievance involving an adverse determination of
106 a concurrent review request, pursuant to 45 CFR 147.136, as amended

107 from time to time, the treatment shall be continued without liability to
108 the covered person until the covered person has been notified of the
109 review decision.

110 (4) (A) Notwithstanding subdivision (3) of this subsection, if a
111 covered person or the covered person's authorized representative files
112 any grievance or requests any review of an adverse determination
113 pursuant to this section relating to the dispensation of a drug, other
114 than a schedule II or III controlled substance, prescribed by a licensed
115 participating provider, the health carrier shall issue immediate
116 electronic authorization to the covered person's pharmacy to dispense
117 a temporary supply of the drug sufficient for the duration of the
118 grievance or review. The authorization shall include confirmation of
119 the availability of payment for such supply of such drug.

120 (B) Not later than twenty-four hours after the health carrier has
121 issued such authorization to the pharmacy and prior to the pharmacy's
122 dispensation of such drug, such health carrier shall confirm with the
123 participating provider the provider's concurrence with the dispensing
124 of such temporary supply of such drug. If such participating provider
125 does not concur, the health carrier shall cancel such authorization.

126 (C) The provisions of this subdivision shall not apply to a grievance
127 or review of an adverse determination under this section concerning
128 the substitution of a generic drug or another brand name drug for a
129 prescribed brand name drug unless the prescribing licensed
130 participating provider has specified that there shall be no substitution
131 for the specified brand name drug.

132 Sec. 503. Subsection (b) of section 38a-591f of the general statutes is
133 repealed and the following is substituted in lieu thereof (*Effective*
134 *January 1, 2018*):

135 (b) (1) A covered person or the covered person's authorized
136 representative may file a grievance of an adverse determination that
137 was not based on medical necessity with the health carrier not later
138 than one hundred eighty calendar days after the covered person or the

139 covered person's representative, as applicable, receives the notice of an
140 adverse determination.

141 (2) (A) If a covered person or the covered person's authorized
142 representative files any grievance or requests any review of an adverse
143 determination pursuant to this section relating to the dispensation of a
144 drug, other than a schedule II or III controlled substance, prescribed by
145 a participating provider, the health carrier shall issue immediate
146 electronic authorization to the covered person's pharmacy to prescribe
147 a temporary supply of the drug sufficient for the duration of the
148 grievance or review. The authorization shall include confirmation of
149 the availability of payment for such supply of such drug.

150 (B) Not later than twenty-four hours after the health carrier has
151 issued such authorization to the pharmacy and prior to the pharmacy's
152 dispensation of such drug, such health carrier shall confirm with the
153 participating provider the provider's concurrence with the dispensing
154 of such temporary supply of such drug. If such participating provider
155 does not concur, the health carrier shall cancel such authorization.

156 (C) The provisions of this subdivision shall not apply to a grievance
157 or review of an adverse determination under this section concerning
158 the substitution of a generic drug or another brand name drug for a
159 prescribed brand name drug unless the prescribing participating
160 provider has specified that there shall be no substitution for the
161 specified brand name drug.

162 ~~[(2)]~~ (3) The health carrier shall notify the covered person and, if
163 applicable, the covered person's authorized representative not later
164 than three business days after the health carrier receives a grievance
165 that the covered person or the covered person's authorized
166 representative, as applicable, is entitled to submit written material to
167 the health carrier to be considered when conducting a review of the
168 grievance.

169 ~~[(3)]~~ (4) (A) Upon receipt of a grievance, a health carrier shall
170 designate an individual or individuals to conduct a review of the

171 grievance.

172 (B) The health carrier shall not designate the same individual or
173 individuals who denied the claim or handled the matter that is the
174 subject of the grievance to conduct the review of the grievance.

175 (C) The health carrier shall provide the covered person and, if
176 applicable, the covered person's authorized representative with the
177 name, address and telephone number of the individual or the
178 organizational unit designated to coordinate the review on behalf of
179 the health carrier.

180 Sec. 504. Subsection (b) of section 38a-591g of the general statutes is
181 repealed and the following is substituted in lieu thereof (*Effective*
182 *January 1, 2018*):

183 (b) (1) Except as otherwise provided under subdivision (2) of this
184 subsection or subsection (d) of this section, a covered person or a
185 covered person's authorized representative shall not file a request for
186 an external review or an expedited external review until the covered
187 person or the covered person's authorized representative has
188 exhausted the health carrier's internal grievance process.

189 (2) A health carrier may waive its internal grievance process and the
190 requirement for a covered person to exhaust such process prior to
191 filing a request for an external review or an expedited external review.

192 (3) (A) If a covered person or the covered person's authorized
193 representative files any grievance or requests any review of an adverse
194 determination pursuant to this section relating to the dispensation of a
195 drug, other than a schedule II or III controlled substance, prescribed by
196 a participating provider, the health carrier shall issue immediate
197 electronic authorization to the covered person's pharmacy to dispense
198 a temporary supply of the drug sufficient for the duration of the
199 grievance or review. The authorization shall include confirmation of
200 the availability of payment for such supply of such drug.

201 (B) Not later than twenty-four hours after the health carrier has
202 issued such authorization to the pharmacy and prior to the pharmacy's
203 dispensation of such drug, such health carrier shall confirm with the
204 participating provider the provider's concurrence with the dispensing
205 of such temporary supply of such drug. If such participating provider
206 does not concur, the health carrier shall cancel such authorization.

207 (C) The provisions of this subdivision shall not apply to a grievance
208 or review of an adverse determination under this section concerning
209 the substitution of a generic drug or another brand name drug for a
210 prescribed brand name drug unless the prescribing participating
211 provider has specified that there shall be no substitution for the
212 specified brand name drug."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>January 1, 2018</i>	38a-591d(b)
Sec. 502	<i>January 1, 2018</i>	38a-591e(c)
Sec. 503	<i>January 1, 2018</i>	38a-591f(b)
Sec. 504	<i>January 1, 2018</i>	38a-591g(b)